

REMARKS

Claims 49-70 are pending in the present application. By this Reply, the previously pending claims have been cancelled without prejudice or disclaimer of the subject matter contained therein. New claims 49-70 have been added. Claims 49 and 61 are independent.

The claims have been amended to further clarify the invention and to improve form according to U.S. patent practice. The presently pending claims are fully supported by the original disclosure, e.g., elected Figures 3 and 4 and page 9, line 12 – page 14, line 9 of the present specification. Thus no new matter is added.

Personal Interview Requested

Applicant hereby officially requests a personal interview with the Examiner to advance prosecution. Applicant's representative, Ms. Esther H. Chong (Reg. No. 40,953), will contact the Examiner to schedule the interview shortly. Applicant appreciates the Examiner's cooperation in this matter.

Claim rejections – 35 U.S.C. § 102 and § 103

Claims 1, 2, 6-9, 11-14, 27, 40-46 and 48 have been rejected under 35 U.S.C. § 102(a) as being anticipated by or in the alternative, under 35 U.S.C. § 103(a) as obvious over the previously applied reference, Mazzochette et al. (U.S. PG Pub No. 2004/0222433, hereinafter Mazzochette). This rejection, insofar as it may pertain to the presently pending claims, is respectfully traversed.

Without acquiescing to any of the Examiner's allegations made to reject these claims, but to advance prosecution only, these claims have been cancelled and new claims 49-70 are presented. Thus, the following comments are provided insofar that Mazochette may be applicable to new claims 49-70.

Independent claim 49 recites, *inter alia*:

A light emitting device package, comprising:
a base having an entire top surface that is flat;
a light emitting device directly on the flat top surface of the base;

an electrical circuit layer including at least one end portion placed adjacent to the light emitting device;
an electrode layer disposed above a tip portion of the at least one end portion of the electrical circuit layer; and
a lens covering the light emitting device and the electrode layer (emphasis added).

Independent claim 61 is directed to a light emitting device including at least one light emitting package of claim 49. These features are fully supported by the original disclosure, e.g., Figures 3 and 4. For instance, as shown in Figures 3 and 4, Applicant's embodied light emitting device package, as one example, includes a base (e.g., 350) whose entire top surface is flat, a light emitting device (e.g., 360) directly on the top surface of the base, an electrical circuit layer (e.g., 330) including end portions placed adjacent to the light emitting device (see Figure 4), an electrode layer (e.g., 320) disposed above a tip portion of these end portions (see Figure 4 and Figure 3), and a lens (e.g., 310) covering the light emitting device and the electrode layer (see Figure 4). Please see also page 9, line 12 – page 14, line 9 of the present specification. Claim 61 recites similar features in a varying scope.

Applicant respectfully submits that the features as claimed in independent claims 49 and 61 are not disclosed by or rendered obvious over Mazzochette at least for the following reasons.

Firstly, the Examiner refers to Mazzochette's first embodiment (Figure 1A) for allegedly teaching most of the claimed components of the light emitting device package, but then relies on Mazzochette's alternative embodiment (Figure 5) to teach other components of the same light emitting device package, which is improper. More specifically, on pages 2 and 3 of the Office Action, the Examiner relies on Figure 1A embodiment and equates Mazzochette's base 11 to Applicant's base, Mazzochette's conductive layer 13 to Applicant's electrical circuit layer, Mazzochette's LED 10 to Applicant's light emitting device, Mazzochette's cover 19 to Applicant's lens. Then the Examiner turns to Mazzochette's alternative Figure 5 embodiment and equates Mazzochette's bonding pad 55 to Applicant's electrode layer.

However, as stated clearly by Mazzochette, Mazzochette's Figure 5 is an alternative embodiment to Mazzochette's Figure 1A, see e.g., paragraph [0035] of Mazzochette, and thus teaches away from applying bonding pad 55 to Mazzochette's Figure 1A package. A reference

may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. See United States v. Adams, 383 U.S. 39, 52, 148 USPQ 479, 484 (1966) and In re Gurley, 31 USPQ2d 1130 (Fed. Cir. 1994).

Further, one skilled in the art would be no way motivated to make such modification since Mazzochette's Figure 1A package is complete on its own and is completely different in structure from Mazzochette's Figure 5 package. Thus, Mazzochette's Figure 5's bonding pad 55 cannot be applied to Mazzochette's Figure 1A's LED package, and Mazzochette fails to teach or suggest Applicant's claimed one light emitting device package that includes all claimed components.

Secondly, Mazzochette's embodiment directed to Figure 1A or 5 or any other figure does not anticipate or render obvious Applicant's invention as required by independent claim 49. Claim 61 recites similar features in a varying scope.

For instance, in Mazzochette's Figure 1A embodiment, there is no "light emitting device directly on the flat top surface of the base" as claimed since the insulating layer 12 and the bonding pads 13A, 13C are directly below the LED 10, and there is no "electrode layer disposed above a tip portion of the at least one end portion of the electrical circuit layer" or "lens covering the light emitting device and the electrode layer", *inter alia*, as claimed. In Mazzochette's Figure 4 alternative embodiment, there is no "light emitting device directly on the flat top surface of the base" as claimed since the insulating layer 12 and the bonding pads 13A, 13C are directly below the LED 10, and there is no "electrode layer disposed above a tip portion of the at least one end portion of the electrical circuit layer", *inter alia*, as claimed. In Mazzochette's Figures 5-7 alternative embodiments, there is no "base having an entire top surface that is flat" as claimed since the base 51 has the entire top surface that is curved multiple times, and there is no "lens covering the light emitting device and the electrode layer", *inter alia*, as claimed.

Therefore, Mazzochette clearly does not and cannot anticipate or render obvious each and every feature recited in independent claims 49 and 61.

Furthermore or in the alternative, Mazzochette clearly does not and cannot anticipate or render obvious each and every features recited in the dependent claims. For instance,

Mazzochette fails to teach or suggest, *inter alia* “the electrode layer is separated from the light emitting device and does not directly contact the light emitting device” as recited in dependent claim 51, “lens is a molding which completely fills up any space between the light emitting device and the electrode layer” as recited in claim 52, or “the entire electrode layer is encapsulated by the lens” as recited in claim 53. Dependent claims 64-66 recite similar features in a varying scope.

Accordingly, independent claims 49 and 61 and their dependent claims (due to the dependency or for the recited features) are patentable over the applied art, and withdrawal of the rejection and indication of allowance of these claims are respectfully requested.

CONCLUSION

In view of the above amendment and/or remarks, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Esther H. Chong, Reg. No. 40,953, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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